

CHAPTER NO. 668

SENATE BILL NO. 2635

By Henry

Substituted for: House Bill No. 2460

By Odom

AN ACT To amend Tennessee Code Annotated, Title 62, Chapter 21, relative to pest control operators.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-21-102, is amended by deleting subdivision (4) in its entirety and by substituting instead the following:

(4) "Certification" means the authorization by the commissioner to use, supervise the use of, buy or sell restricted use pesticides; or to issue a wood destroying insect infestation inspection report.

SECTION 2. Tennessee Code Annotated, Section 62-21-102, is further amended by deleting subdivision (7) in its entirety and by substituting instead the following:

(7) "Commercial pest control operator" means a person or business entity who engages in the custom application of pesticides or inspection of real property for the purpose of issuing a wood destroying insect infestation inspection report and who has demonstrated to the satisfaction of the Pest Control Licensing and Advisory Board such person's qualifications to design and direct pest control and inspection operations;

SECTION 3. Tennessee Code Annotated, Section 62-21-102, is amended by adding the following new item thereto:

(21) "Wood destroying insect infestation inspection report" means a report written by a chartered commercial pest control operator employing a person licensed in the category of wood destroying organisms. The report shall indicate the presence or absence of visible wood destroying insects and the presence or absence of visible damage caused by such insects and shall be issued after an on-site inspection of the property;

SECTION 4. Tennessee Code Annotated, Section 62-21-107(c), is amended by deleting the words and figures "five thousand dollars (\$5,000)" and by substituting instead the words and figures "ten thousand dollars (\$10,000)".

SECTION 5. Tennessee Code Annotated, Section 62-21-108, is amended by deleting such section in its entirety and by substituting instead the following new language:

Section 62-21-108. Each application for a charter must be accompanied by evidence that the applicant holds liability insurance of two hundred fifty thousand dollars (\$250,000) for a single occurrence of liability, and five hundred thousand dollars

(\$500,000) aggregate liability for the annual period of insurance. Applicants filing for charters desiring to conduct work in the wood destroying organisms category shall, in addition to the above liability insurance, hold errors and omissions insurance of one hundred thousand dollars (\$100,000) for a single occurrence of such liability, and three hundred thousand dollars (\$300,000) aggregate errors and omissions liability for the annual period of insurance.

SECTION 6. Tennessee Code Annotated, Title 62, Chapter 21, is amended by designating the current language, as amended by this act, as Part 1, and by adding Sections 7 through 12 of this act as a new part thereto.

SECTION 7. Wood destroying insect infestation inspection reports, as defined in this chapter, issued in conjunction with the sale or transfer of any real property shall only be issued by a chartered pest control operator licensed, or employing personnel licensed, in the category of wood destroying organisms. Only those persons licensed in the category of wood destroying organisms or certified in the category of industrial, institutional, structural and health related pest control working under the direct supervision of one licensed in the category of wood destroying organisms are authorized to conduct inspections for wood destroying insect infestation reports.

SECTION 8. (a) A wood destroying insect infestation inspection report issued by a chartered pest control operator evidences the presence or absence of visible wood-destroying insects and the presence or absence of visible damage caused by such insects noted on the day the inspection is made. Obstructions and inaccessible areas shall be so noted in the report.

(b) The wood destroying insect infestation inspection report shall be submitted on forms prescribed by the National Pest Management Association and the Federal Department of Housing and Urban Development. In addition to other information, the report shall include the address of the property, a graph or other diagram showing the layout of the property, the areas of damage or active infestation (if any), the name of the licensed or certified employee conducting the inspection, the pest control operator name, address and charter number, the date of the inspection and any recommendations for corrective action.

(c) Notwithstanding any provision of law to the contrary, a wood destroying insect infestation inspection report is a warranty for ninety (90) days of the accuracy of any representations in such inspection report.

(d) The person to whom a wood destroying insect infestation inspection report is issued may recover from the warrantor for breach of warranty compensatory damages, including all repair costs which are proximately related to the warranty as provided in Section 9.

(e) Persons knowingly issuing a false report or who issue a report without making a physical inspection of the site shall be liable in treble the amount of damages resulting from or incident to the breach of the warranty. The party injured by such breach may bring suit for the breach and for such damages.

SECTION 9. Disputes which cannot be resolved between property owners, lenders, and/or trustees and persons issuing a wood destroying insect infestation inspection report may be resolved in a court of appropriate jurisdiction. Prior to filing a suit for compensatory

damages, the issuer of the report shall be given an opportunity to inspect the premises and to offer within thirty (30) days of such inspection a proposal for repair and treatment of the premises. Notwithstanding any other provision of law or rule to the contrary, if the property owner files suit prior to offering the issuer of the report an opportunity to inspect and propose repairs and treatments as required by this section, the issuer of the report shall have, in addition to the thirty (30) days in which to answer the complaint as provided in Rule 12 of the Tennessee Rules of Civil Procedure, another thirty (30) days from the service of the summons and complaint within which to inspect and propose repairs and treatments or before being required to answer the complaint. No property owner or lender shall be required to engage in an alternate dispute resolution process before filing a suit for compensatory damages.

SECTION 10. When the assets of a commercial pest control operation that issues wood destroying insect infestation inspection reports or performs other services relating to wood destroying organisms are sold or transferred, or any servicing or financing rights are transferred, any contracts for wood destroying insect infestation inspections or other services which are a part of such assets or which are subject to such servicing or financing rights, shall be enforceable against the persons or entities to which such assets, servicing or financing rights are transferred.

SECTION 11. Any person issuing a wood destroying insect infestation inspection report who does not hold a valid commercial pest control charter and who is not licensed in the category of wood destroying organisms is in violation of this chapter and is guilty of a Class A misdemeanor punishable only by a fine of not more than two thousand five hundred dollars (\$2,500).


SECTION 12. The commissioner shall have the authority, pursuant to Title 4, Chapter 5, to promulgate all necessary rules and regulations concerning the provisions of this act.

SECTION 13. This act shall take effect July 1, 2000, the public welfare requiring it.

PASSED: April 13, 2000




JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of April 2000



DON SUNDQUIST, GOVERNOR